

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA**

SIDNEY E. SMITH III, et al., executors	)	
of the Estate of Sidney E. Smith, Jr.,	)	
	)	
Plaintiff,	)	Civil Action No. 02-264 Erie
	)	
v.	)	Hon. Sean J. McLaughlin
	)	Hon. Susan Paradise Baxter
UNITED STATES,	)	
	)	
Defendant.	)	

**MOTION FOR A NEW TRIAL**

The United States of America moves the Court, pursuant to Fed. R. Civ. P. 59(a), for a new trial. In particular, the United States submits that the Court erred in its evidentiary ruling permitting the lay opinion testimony of Sidney E. Smith, III ("Smith III"), on the value of a 1% limited partnership interest in the Sidney E. Smith, Jr. Family Limited Partnership ("Smith FLP"), and that the jury undoubtedly relied on such improper testimony in reaching its verdict.

These grounds are more fully set forth in a memorandum in support of this motion, filed herewith. In addition, the United States relies upon the parties' pleadings, testimony and the entire record in this action.

A proposed form of order is submitted herewith.

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WHEREFORE, the United States moves the Court for an order granting a new trial, as authorized by Fed. R. Civ. P. 59(a).

Dated: October 14, 2005

Respectfully submitted,

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